

Proposed Whole Life Custody (Scotland) Bill

Introduction

A proposal for a Bill to give Scottish courts the power to sentence the worst criminals to custody for the rest of their lives. The consultation runs from 29 May 2019 to 30 August 2019. All those wishing to respond to the consultation are strongly encouraged to enter their responses electronically through this survey. This makes collation of responses much simpler and quicker. However, the option also exists of sending in a separate response (in hard copy or by other electronic means such as e-mail), and details of how to do so are included in the member's consultation document. Questions marked with an asterisk (*) require an answer. All responses must include a name and contact details. Names will only be published if you give us permission, and contact details are never published – but we may use them to contact you if there is a query about your response. If you do not include a name and/or contact details, we may have to disregard your response. Please note that you must complete the survey in order for your response to be accepted. If you don't wish to complete the survey in a single session, you can choose "Save and Continue later" at any point. Whilst you have the option to skip particular questions, you must continue to the end of the survey and press "Submit" to have your response fully recorded. Please ensure you have read the consultation document before responding to any of the questions that follow. In particular, you should read the information contained in the document about how your response will be handled. The consultation document is available here: [Consultation document](#) [Privacy Notice](#)

I confirm that I have read and understood the Privacy Notice attached to this consultation which explains how my personal data will be used

About you

Please choose whether you are responding as an individual or on behalf of an organisation. Note: If you choose "individual" and consent to have the response published, it will appear under your own name. If you choose "on behalf of an organisation" and consent to have the response published, it will be published under the organisation's name.

an individual

Which of the following best describes you? (If you are a professional or academic, but not in a subject relevant to the consultation, please choose "Member of the public".)

Member of the public

Optional: You may wish to explain briefly what expertise or experience you have that is relevant to the subject-matter of the consultation:

I was born and raised in Scotland, but now live in England, where whole life sentencing is available. I note the differences between sentencing in Scotland vs. England for the same offences.

Please select the category which best describes your organisation

No Response

Please choose one of the following:

I would like this response to be published anonymously

If you have requested anonymity or asked for your response not to be published, please give a reason (Note: your reason will not be published):

Please provide your name or the name of your organisation. (Note: the name will not be published if you have asked for the response to be anonymous or "not for publication". Otherwise this is the name that will be published with your response).

Please provide details of a way in which we can contact you if there are queries regarding your response. Email is preferred but you can also provide a postal address or phone number. We will not publish these details.

Aim and approach

Q1. Which of the following best expresses your view of giving Scottish courts the power to sentence the worst criminals to custody for the rest of their lives?

Fully supportive

Please explain the reasons for your response.

Scotland's sentencing for murder is extremely weak compared to England, and always has been. The longest "punishment part" ("tariff" in England) ever handed down in Scotland was 37 years, handed down in 2014 to the late Angus Sinclair for the notorious "World's End" murders. It took until 2008 before the previous record (35 years) was set. Even the Lockerbie Bombers got 27 years each for hundreds of deaths in a terrorist attack. Tariffs for murder in England are always much longer. Finsbury Park van attacker Darren Osborne received a minimum 43 year tariff when just one person died. The killers of fusilier Lee Rigby in Woolwich (May 2013) received a whole life order for one defendant and 45 years for the other. Murder with a firearm in England has a de facto minimum of 30 years for adults, generally no less than 20 for younger offenders - sentences of 35+ years for adult firearm killers are the norm. England also has the whole life sentencing option for those aged 21+ at the time of the offence. It is generally handed down to murderers who committed a sexually motivated crime (often against a child), who are at risk of serious reoffending, or who have committed murder having already received a previous life sentence for a previous murder. This is not available in Scotland. Whilst the question has been asked many times, it has never been made satisfactorily clear as to why this is. A prime example is Scottish serial killer Peter Tobin. He was sentenced to a whole life order in England for the 1991 murder of Dinah McNicol, yet has been convicted of two murders in Scotland - Angelika Kluk (2006) and Vicky Hamilton (1991). He is a highly dangerous individual who is not fit for release, yet had he not been convicted in England, he would be eligible for a parole board at some point. Again, Scotland has no mechanism for dealing with such high risk offenders. Had Aaron Campbell committed his vile crime in England and been aged 21+ at the time of the offence, there would have been no debate as to his sentence. An immediate whole life order.

Q2. How would introducing Whole Life Custody Sentences affect your level of confidence in the Scottish justice system?

Significantly more confident in the justice system

Please explain the reasons for your response

The most dangerous offenders are often remorseless and totally beyond reform, unfit to play any role in society. Whole life sentencing would ensure absolute justice for their victims and ensure the general public never encounter these people ever again.

Q3. Which types of murder should have a Whole Life Custody Sentence as the starting point for sentencing? (Choose all that apply)

The murder of two or more persons, where each murder involves any of (1) a substantial degree of premeditation or planning, (2) the abduction of the victim, or (3) sexual or sadistic conduct

The murder of a child if involving the abduction of the child or sexual or sadistic motivation

The murder of a police or prison officer in the course of their duty

A murder carried out for the purpose of advancing a political, religious, racial or ideological cause

A murder by an offender previously convicted of murder

Please explain the reasons for your response

All of these are valid and absolutely appropriate criteria, and all are currently used in England. Abduction and/or sexual motivation - quite a few examples from England including Roy Whiting, Mark Bridger, Jamie Reynolds. "Murder by an offender previously convicted of murder" is open-and-shut. I have never seen anyone in that situation be spared a whole life order.

Q4. Which sexual offences should have a Whole Life Custody Sentence as the starting point for sentencing? (Choose all that apply)

Rape of two or more persons

Rape of a young child

Sexual assault on a young child by penetration

Causing a young child to participate in a sexual activity

Please explain the reasons for this response.

These offences are used as a dominant show of power over the victim, which causes extreme psychological damage as well as physical. There is absolutely no justification for this behaviour, while anyone capable of this level of offending is very likely completely beyond reform and the public must be protected from them.

Q5. Are there any other types of offence (other than murder or certain sexual offences) which should attract a Whole Life Custody Sentence as a 'starting point' for sentencing?

No- only murder and certain sexual offences should attract a Whole Life Custody Sentence

Please explain the reason for your response.

Murder and sexually motivated crimes are the worst crimes you could imagine, and must be met with the ultimate punishment. If you hand out Whole Life Custody Sentences for "lesser" crimes, then you end up with the same situation in the Great Train Robbery back in 1963 - everyone will just commit more serious crimes because it attracts the same punishment as lesser ones, and the sentence's effectiveness and intimidatory factor is significantly reduced.

Q6. Which of the following best expresses your view on whether whole life custody should be a sentencing option for younger offenders?

Whole life custody should be an option for any adult offender (aged 16 or over) or for children over the age of criminal responsibility (at the time the offence was committed)

Please explain the reasons for your response.

It should be available for all offenders and we should consider moving to a US-style system of being able to try children as adults under certain circumstances. Aaron Campbell is a prime example. One of the worst offenders modern Scotland has ever seen, but gets a lesser sentence on account of his age. Lord Matthews even said that during his sentencing remarks and several of Alesha MacPhail's relatives have called for a "try as an adult" approach to justice for the worst offences. We cannot let horrific crimes receive kid glove treatment just because of the offender's age. We should be looking at their cognitive capacity and their understanding of the crime they have committed.

Financial Implications

Q7. Taking account of both costs and potential savings, what financial impact would you expect the proposed Bill to have? Please explain the reasons for your response.

I anticipate increased costs of holding offenders in prison until their natural death, as this will likely require inmates being held over very long periods and it is also likely special custody facilities (perhaps a new "Whole Life" prison) to be prepared for them and maintained.

There are potential savings in appeal costs, surveillance and monitoring costs for offenders on licence or amongst the public, and reduced costs in terms of future crimes prevented.

Equalities

Q8. What overall impact is the proposed Bill likely to have on equality, taking account of the following protected characteristics (under the Equality Act 2010): age, disability, gender re-assignment, maternity and pregnancy, marriage and civil partnership, race, religion or belief, sex, sexual orientation?

Neutral (neither positive nor negative)

Q8. What overall impact is the proposed Bill likely to have on equality, taking account of the following protected characteristics (under the Equality Act 2010): age, disability, gender re-assignment, maternity and pregnancy, marriage and civil partnership, race, religion or belief, sex, sexual orientation?

Please explain the reasons for your response.

I don't believe this will have any impact. A criminal offender is a criminal offender and protected characteristics shouldn't play any role in justice.

Sustainability

Q9. Do you consider that the proposed Bill can be delivered sustainably, i.e. without having likely future disproportionate economic, social and/or environmental impacts?

Yes

General

Q10. Do you have any other comments or suggestions on the proposal?

The proposal must be accompanied by concrete examples from England to show the sorts of crimes that would normally be punished with whole life legislation. Then compare to similar heinous offences in Scotland, where that option is not available and perhaps should have been. It is important to be punchy and ram this home.